



US Army Corps of
Engineers

Public Notice

Documenting Unauthorized Fill and Other Site Alterations in Wetland Delineations

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The U.S. Army Corps of Engineers, Portland District, Regulatory Branch has recently evaluated several wetland delineations that raised questions regarding the identification and characterization of wetlands or other waters that have been altered or no longer exist due to unauthorized actions.

Our information needs for reviewing delineations are based on Federal regulations, joint agency guidance operative within Oregon, and the 1987 wetland delineation manual and the associated regional supplements.

Federal regulations, at 33 CFR § 323.2(d)(5) state that "unauthorized discharges into waters of the U.S. do not eliminate CWA jurisdiction, even where such unauthorized discharges have the effect of destroying waters of the U.S."

The Portland District, the Environmental Protection Agency, Region 10, and the Oregon Department of State Lands issued guidance on wetland delineation in July 2005. The guidance states that "the atypical site procedures should be applied whenever human activities or natural events have significantly altered vegetation, soils, and/or hydrology" and that "if a recent alteration was due to filling, grading, ditching, or land clearing, the agencies will need to know the approximate date and scope of the alteration." The guidance is available at:

www.nwp.usace.army.mil/op/g/docs/documents/Interagency%20Wetland%20Delineation%20Guidance.pdf

Wetland delineation reports for sites with wetlands that have been altered or no longer exist due to unauthorized actions should provide an accurate description of the extent and character of such wetlands, based on available information (soils maps, air photos, previous wetland delineations, etc.). In addition, site history information should be submitted to document the type of alteration and approximate date the alteration occurred. This information is necessary for Corps Project Managers to understand site conditions, determine the extent of Federal jurisdiction, and evaluate permit applications.

Such delineations do not have to have the same map accuracy as delineations of existing wetlands, but they should be adequate to describe the extent and character of previously existing wetlands or waters that remain waters of the U.S. In general, detailed delineation with the on-site procedures described in the "atypical situations" section of the 1987 Manual (e.g., examination of buried soil horizons) is not necessary at the time of initial submittal of the delineation report. That level of data collection may be necessary at a later date if the Corps determines that it is warranted.

This informational public notice reflects existing policy and guidance and is therefore available for immediate use. For additional guidance, contact the Portland District Regulatory Branch:
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